

In the Court of Civil Judge (Jr. Divn.) 1st Court, Baruipur
Present: Debasmita Kundu
Civil Judge (Jr. Divn.)
J.O. Code: WB1404
T.S. 679 of 2022
CNR No. WBSPOE-000 939-2022

Order No. 02, Date: 30.09.2022,

A put-up petition is filed by the Plaintiff for the reasons stated therein.

Heard. Perused. Considered and **allowed.**

The Ld. Adv. for the Plaintiff filed an application for injunction today along with another petition praying for hearing of U/O 39 rule 1(a)(b)(c) r/w Section 151 of CPC application at this stage. The Ld. Adv. for the Plaintiff submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff may suffer irreparable loss and injury.

Heard. Perused. Considered. **Allowed.**

Now, record is taken up for hearing the ad interim injunction application under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure. The Ld. Adv. for the Plaintiff submits that hearing of ad interim injunction application is very urgent at this stage; otherwise the Plaintiff may suffer irreparable loss and injury.

As per report of the Sheristadar no caveat is pending as on this date.

Heard the Ld. Adv. for the Plaintiff. Perused the plaint, application for temporary injunction under Order XXXIX Rule 1(a)(b)(c) read with section 151 of the Code of Civil Procedure and other materials available in the record. Considered.

This is a suit for declaration of title, permanent injunction and consequential reliefs.

The Plaintiff by filing the injunction application and supporting documents stating that he has a good prima-facie case. Though it is a good prima-facie to go into the trial but from the averments made in the plaint and from the documents filed herewith it appears that the Plaintiff has established the prima-facie case. By producing the documents in favour of his contentions, the Plaintiff raised presumption of his right, interest and possession over the suit property. On submission of the Ld. Advocate and perusal of the documents, it is reflected that the dispute which has arisen between the parties is of such a nature without hearing the both parties no presumption can be drawn up at this early stage of the suit but protection and preservation of the suit property is necessary and urgent at this stage. The Plaintiff has filed some documents in favour of his contentions by way of firisty

Considering the facts and circumstance of the present suit supported by documents available before this Court and by the oral submission of the Ld. Advocate for the Plaintiff I am of the view that in a suit for permanent injunction, it is an innocuous prayer for an order of injunction restraining the Defendant from raising any construction and/or alienating and/or selling out and/or encumbering and/or parting with possession and/or changing the nature and character of the suit property or portions thereof. It is also reflected from the documents filed by the Plaintiff that there is some dispute regarding the title of the suit in respect to the suit property and for which the dispute/subject matter has been raised between the parties. I am also having a view that protection and preservation of the suit land is necessary at this prima-facie stage and if the order of injunction has not been allowed the Plaintiff may suffer an irreparable loss and injury which cannot be compensated by way any other means in respect of the suit plot of land at this prima-facie stage. Therefore, I am satisfied with the prima facie case and balance of convenience and inconvenience lies in favour of the Plaintiff at this stage.

Contd...

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Accordingly, I am of the view that a status quo order would be proper and befitting order at present directing both sides to maintain their respective possession over their respective share. Therefore, I am inclined to pass an order of injunction directing both the parties to maintain peaceful possession in respect of the suit property till next date.

Hence, it is

ORDERED

that the prayer for ad interim injunction under Order XXXIX Rule 1 (a) (b) (c) read with section 151 of Code of Code of Civil Procedure is considered and allowed in the form of a status quo.

Both the parties are directed to maintain peaceful possession of each other in respect of the suit property and not to disturb and interfere the peaceful possession of the Plaintiff and not to change the nature, character and possession of the schedule mentioined property till **30.11.2022 (due to ensuing puja vacation)**.

The Defendant is directed to show cause within 15 days from the date of receipt thereof as to why prayer of temporary injunction of the Plaintiff shall not be allowed.

Plaintiff is directed to comply with the provision Order XXXIX Rule 3 (a) & 3(b) of CPC.

Issue notice upon the Defendant at once.

D/C by me:

Sd/- (D. Kundu)

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Baruipur, South 24-Parganas,
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